

Minutes of Thompson Working Group Meeting held March 19, 2018

Present:

Chief Judge Margaret Wiebe
Associate Chief Judge Shauna Hewitt-Michta
Assistant Deputy Attorney General Michael Mahon
Assistant Deputy Minister Suzanne Gervais
Inspector Kevin Lewis, RCMP
S/Sgt Colby Argue, RCMP
Sam Raposo, Executive Director Legal Aid Manitoba
Darcy Blackburn, Executive Director Sheriff Services
Russ Ridd, Director of Regional Prosecutions
Theresa McDonald Legal Aid Manitoba **
Derek Coggan, Law North **
Shelly Green, Director of Northern Court Operations**
** Participated by Teleconference

Regrets:

Greg Graceffo, Associate Deputy Minister, Community Safety Division
Ed Klassen, Director of Operations, Community Safety Division, Custody

Chief Judge Wiebe thanked all for attending. She acknowledged the significant and complicated challenges facing Thompson court center owing to volume and seriousness of the workload and deficits in resources. We hope that assembling a working group of individuals with decision-making authority to seek out global solutions and improvements will be more effective than each stakeholder addressing issues in isolation.

RCMP

S/Sgt Argue identified some challenges for the RCMP including:

- (a) crushing workload in terms of volume and seriousness for relatively small number of officers;
- (b) Thompson RCMP detachment serves as de facto provincial remand center with a large number of new arrests and remanded prisoners held in a limited number of cells – new arrests held in some cells and remanded prisoners in other cells awaiting transport by sheriffs to provincial correctional centers – approx. 6000 prisoners per year pass through the RCMP cells including prisoners with medical and mental health issues and new arrests who may be intoxicated;
- (c) Submitting large number of court briefs to crowns who are inexperienced and who are also labouring under heavy caseloads leading to less familiarity with files than is ideal – duplication of effort and wasted time as police regularly receive disclosure requests from crowns for materials that have already been submitted or covered off in original court packages;
- (d) Delays in receiving paperwork from the court office and errors in paperwork received – RCMP acknowledge the court office experiences high staff turnover and challenges processing papers

in a timely manner given the volume of work and available resources – recent change so that court office is scanning dispositions and then emailing to dispositions so easier to read and track than when orders were previously faxed – RCMP now do data entry of dispositions as part of RCMP effort to bring CPIC up to date – the computer program will not accept dispositions if there are errors so those dispositions have to be returned to the court office for correction which is a drain on RCMP time and further delays entry into the system – important that information is entered as quickly as possible so that court orders are available in computer system – ex. domestic violence case where probation order with no contact imposed by court - RCMP have seen cases where 1-2 week delay in entering the disposition and during intervening period if call for service, officer would not know about no contact order. RCMP have also experienced delays, sometimes 2 weeks, in getting copied of bail orders – ideally need those bail orders right away so they can be data entered – safety concerns arising from delay in entering for officers and for the public

Discussion about length of stay for prisoners in RCMP cells. RCMP and sheriffs try to limit stays in RCMP cells as much as possible. If arrested on Friday evening though may be in RCMP cells until Monday. New arrest are brought before Justice as soon as possible but if remanded in custody RCMP then rely on sheriffs for transport to correctional center and sheriffs don't work on weekends. New arrest and remanded prisoners held in separate cells, not mixed. Prisoners do not want to stay in RCMP cells any longer than necessary – want to get to a correctional center where more amenities available. Once a lodged prisoner is remanded in custody by a justice, they become the sheriff's responsibility. Whenever and as much as possible sheriffs move these prisoners out on the same day but there are times when that is not possible. Sheriffs clear out RCMP cells before each weekend because the space is needed by RCMP for people lodged over the weekend.

Very few cells in Thompson Sheriff's office at Provincial building. [REDACTED] Prisoners brought to court from RCMP detachment have to be staggered because of space limitations. Theresa McDonald explained that years ago defence counsel were able to get disclosure materials from crown quite early in the day and lawyers could attend RCMP detachment and start meeting people there before court. She recently discussed with the previous Supervising Senior Crown in Thompson the possibility of reviving this practice and he in turn discussed with S/Sgt Argue. Many agree it is a good idea and may help make better use of time outside court. There are barriers to making this work. It would require everyone to do their part. S/Sgt Argue indicated RCMP officers would not be able to facilitate lawyer access to prisoners because they need to be available for other duties. Darcy Blackburn indicated the sheriffs may be able to take on this responsibility and it seems this would likely be acceptable to the RCMP. Darcy identified a frustration for Sheriffs in that video custody matters are dealt with first on the docket and in person custodies are generally stood down to the end of the court day. [REDACTED]

[REDACTED] Derek Coggan sees many challenges including

police resistance, lack of timely disclosure materials from crown, unavailability of crown to have discussions with. Derek also identified challenges arising from delays in getting prisoners to the courthouse, particularly those transported from TPCC. There was a time when counsel could rely on prisoners being at courthouse by nine to speak to, now it is often 10AM before they arrive, sometimes later, and then waiting for particulars and position from the crown – results in lots of wasted time and frustration for defence counsel. In his view, best practice would be to have prisoners at the Thompson courthouse at 9AM where defence can also access particulars and crown attorney for discussion. Darcy Blackburn reminds us that some prisoners are in Thompson but others are out in remote communities and sheriffs have to arrange a plane and fly out same day to get them in order to bring to Thompson RCMP cells. Not all prisoner transports come from TPCC. Not all can be at courthouse for 9AM.

Theresa McDonald suggests if a process were in place that was mandatory not discretionary where each stakeholder did its part, this could work. Legal Aid would likely be prepared to commit incoming articling student(s) to go to RCMP cells to meet prisoners there before court if a process were implemented. Would require RCMP and crown cooperation in order to have disclosure materials ready early and a crown either at the RCMP detachment or readily accessible by phone. Derek Coggan reports there was a time in the past when an RCMP officer was in the crown's office with court packages at 830ish AM but this is no longer.

Darcy sees value in having counsel meet with clients at RCMP cells – might save some transports to the courthouse.

Chief Judge Wiebe asks Theresa and Derek whether they would provide a list of what would be required in order to implement process of counsel meeting with prisoners before court at RCMP cells.

ACTION ITEM – Derek Coggan and Theresa McDonald to draft list of prerequisites and a proposal for improved access to clients in custody before court

Darcy Blackburn identified added challenge for sheriffs getting prisoners to courthouse – cannot move prisoners at same time as RCMP doing officer releases – wonders if it would be possible for officers to not do releases at same time as sheriffs are trying to move prisoners

ACTION ITEM – At upcoming RCMP meeting S/Sgt Argue will ask RCMP officers not to do officer releases at the same time as sheriffs need to move prisoners from cells to courthouse.

ADAG Mahon notes the pressure to do everything between 730 and 900 AM to be ready for 10AM court start but then court moves relatively slowly - might there be a way to stagger the work over longer period to relieve some of the time pressure? For example, would it make sense to schedule first appearances for 1130 AM to relieve some pressure? Derek Coggan notes sheriffs are delivering

prisoners from all over the north scattered throughout the day and the court center is accustomed to this. Theresa McDonald adds that time for defence counsel is limited once court starts because lawyers needed in court to speak to video custody bails and dispositions. Once court starts, defence counsel's ability to meet with counsel is much more limited.

General discussion about composition of custody dockets – dockets are a mash of bails and dispositions. Theresa reports biggest complaint of Thompson clients is not getting their matter dealt with – sometimes remanded more than once because court times out – people just want their work done. Are there efficiencies to be realized from establishing standalone bail and disposition dockets? Counsel could focus. Crowns could better prepare. Because of volume there needs to be a bail docket, a venue for bail applications every day. Would it make sense to have a disposition list in the morning and a bail docket in the afternoon? Good discussion. No solution or action item at this point but tabled for possible further consideration.

Sheriffs:

Darcy Blackburn highlighted some of the challenges facing sheriffs in Thompson court center including:

- (a) Complications arising in process of transporting prisoners into the court center from remote communities– accessing flight services, weather, hours of work (Monday to Friday, not weekends);
- (b) Moving inmates from the southern institutions to the north – currently doing two runs per week – long drive – challenging to manage separations (youth, adult, male, female, no contact orders)

- [REDACTED]
- (c) Limited holding space at RCMP detachment and at Thompson Provincial Building;

Darcy reminds us custodies do not want to be transported in those conditions unless something meaningful is happening.

It would help if the in person custody matters could be dealt with earlier in the day, not at the end.

General discussion about “slotting” of dispositions. Instead of filling a court up with more work than can reasonably be managed in a day, does it make sense to have counsel book slots of time for specific dispositions? ACJ Hewitt-Michta notes regional court centers have historically resisted a “slotting” approach believing that more matters could be dealt with and time more fully utilized without slotting. There is potential value to crowns who struggle with matters brought forward at the last minute for disposition and crown not always having time to prepare. Derek Coggan does not believe this is a typical occurrence and suggests that counsel are well prepared for dispositions – it is the bail matters that are unplanned and disruptive. He does not believe “slotting” would increase efficiency of the system. The discussion returned to the idea of slotted disposition slots in

[REDACTED]

the morning and bail matters in the afternoon. Chief Judge Wiebe asks whether in a perfect world if online sign up for disposition slots available counsel would likely buy into it? Derek Coggan and Theresa McDonald both suggest counsel not using computers or likely to buy into online scheduling options at this time. Wi-Fi and cell reception problems in the Thompson Provincial Building basement make use of technology nearly impossible for counsel in Thompson. Russ Ridd points out slotting system could be implemented without reliance on technology – paper schedule could be maintained in crown's office. Derek suggests slotting of time will decrease efficiency – should focus on making proper use of available time.

Observation by a number of stakeholders that relatively simple disposition matters may be taking longer than necessary owing to crowns reading voluminous RCMP investigative summaries and more so because judges giving lengthy reasons...ex. simple assault sentencing taking 45 minutes.

Agreement around the table that serious consideration should be given to scheduling disposition dockets in the AM and bail dockets in the PM to differentiate the work. Some around the table believe "slotting" of the disposition courts would be helpful and others are skeptical or even opposed to the idea. An interim measure might be AM Dispo / PM Bail dockets without slotting to begin. Further discussion and consultation will be required before implementing any such change.

Court Office:

Shelly Green identified some of the challenges facing the court office, including:

- (a) Wasted court time – legal aid applications completed during court time – would be helpful if counsel could start this process at RCMP detachment;
- (b) Volume of work on court dockets and wasted time – with current numbers and assuming court sits until 5 PM, there may be about 10 minutes available per matter and if there is a delay getting the person on screen at the institution some of that time is eaten up before the person is even on screen – long submissions by crowns sometimes because RCMP summaries may be too lengthy and lengthy decisions by judges which Thompson dockets do not have luxury of accommodating (new problem arising in last couple of years);
- (c) Use of cafeteria as a courtroom has become a regular occurrence and it is not ideal [REDACTED]
[REDACTED]
- (d) Increased risk of errors in paperwork and processes as result of high staff turnover, constant learning and training of new people

ACTION ITEMS:

ACJ Hewitt-Michta share observation with judges about lengthy / excessive reasons on busy dockets. Russ Ridd on weekly visits to Thompson continue to share observations with crowns about excessive submissions on busy dockets.

S/Sgt Argue take under consideration whether some PIS's are excessive in length and detail – possibly consider encouraging junior officers to provide executive summary on lengthy investigations.

Crown:

Russ Ridd identified some challenges for crowns in Thompson including:

- (a) Vacancies, number of inexperienced crowns, and lack of supervisor currently in that office;
- (b) Volume and complexity of work for inexperienced crowns;
- (c) Court preparation – crowns often do not know whether they are preparing for a bail or a disposition – might not be as challenging to more experienced counsel but these crowns are generally not experienced;
- (d) Crowns feel not always getting a complete investigative report and disclosure package from RCMP up front – added work in having to seek out additional disclosure materials;
- (e) Only 3 custody courts per week – not enough to manage the volume;
- (f) Courts timing out at 430 or 500 in compliance with CJ's directive;
- (g) Lack of restorative justice options and pre-charge referrals by RCMP

Russ Ridd acknowledged there are a number of internal issues / factors which crown management needs to address in Thompson. Russ is currently travelling to Thompson on a weekly basis attempting to address some of these issues.

Defence Counsel:

Derek Coggan identified some challenges for the defence bar in Thompson court center including:

- (a) Lack of diversion and restorative justice alternatives and not enough use of existing restorative justice approaches / options;
- (b) Not enough JJP courts – suggests addition of JJP courts in South Indian Lake, God's River; and Lynn Lake – counsel get a lot of work done on JJP courts and it leaves more serious dispositions and trials for provincial court judges;
- (c) Volume of custody matters;

Derek suggests that court time on Mondays is not well utilized as currently scheduled for Youth and DV Courts when would be better utilized for custody matters – Wednesdays and Fridays would be better days to schedule youth and domestic violence dockets. More judges' courts on Fridays would be useful.

ACTION ITEM – CJ Wiebe and ACJ Hewitt-Michta will consider the scheduling suggestions discussed today and try to identify some options for discussion at the next meeting.

Legal Aid:

Sam Raposo indicates that Theresa McDonald and Derek Coggan have covered the major challenges covering the defence bar including Legal Aid in Thompson court center. The Legal Aid office has been down to one staff lawyer recently. Legal Aid duty counsel work is currently being handled by Derek Coggan's firm. Legal Aid has successfully recruited three lawyers who will be starting in Thompson soon, two are junior and the third is more experienced. There will be an adjustment period. Retention is the greater problem than recruitment. Legal Aid in Thompson will also be taking on two articling students.

The Chief Judge thanked everyone for attending and for the very thoughtful contributions of all. Today was an excellent start. We agreed to meet again in about a month for further discussion.

Next meeting, April 16, 2018 at 12 noon.

Minutes recorded by ACJ Hewitt-Michta

Thompson Working Group
Minutes of Meeting held April 16, 2018

Present:

Chief Judge Margaret Wiebe
Associate Chief Judge Shauna Hewitt-Michta
Assistant Deputy Attorney General Michael Mahon
Assistant Deputy Minister Suzanne Gervais
Greg Graceffo, Associate Deputy Minister, Community Safety Division
Inspector Kevin Lewis, RCMP **
S/Sgt Colby Argue, RCMP **
Sam Raposo, Executive Director Legal Aid Manitoba
Darcy Blackburn, Executive Director Sheriff Services
Lisa Ness, Acting executive Director, Courts
Russ Ridd, Director of Regional Prosecutions
Theresa McDonald Legal Aid Manitoba **
Shelly Green, Director of Northern Court Operations**

** Participated by Teleconference

Regrets:

Derek Coggan, Law North
Ed Klassen, Director of Operations, Community Safety Division, Custody

1. Welcome and Introductions – Chief Judge Wiebe welcomes and thanks all for attending.
2. Proposed agenda reviewed and approved.
3. Minutes from March 19, 2018 meeting accepted.
4. Continuation of Roundtable contributions – CJ Wiebe invited ADM Graceffo to offer any information / observations about Thompson Court Center from Corrections' perspective, as he was unable to attend last meeting. ADM Graceffo acknowledges challenges that exist in Thompson Court Center. Corrections does not have a presence in Thompson. Prisoners are shifted from other correctional centers, primarily The Pas, to and from Thompson and Corrections pays RCMP for use of detachment cells. Any initiatives or changes that "pick up the pace" of prisoners moving through the court system and reduce

remand population are highly desirable from a Corrections perspective. In addition to operational adjustments, he encourages broader discussion of fundamental issue of over representation of Indigenous persons in corrections populations. The Pas Correctional

Center is sitting at about 145 under roof (over 100% capacity); all Indigenous persons; average stay of 45 days, 53 days if you isolate to remand time. This poses a challenge in terms of meaningful intervention. Only one third of sentenced prisoners have probation order to follow so he questions purpose of the incarceration aside from deterrence perhaps. Time in custody dispositions are problematic because they are learning that if they can be effective in release planning they can positively influence amount of time person remains in the community following release. ADM Graceffo questions where restorative justice will fit into work of this working group. Collaboration between police and crown is important in terms of what cases should be diverted and where. Theresa McDonald advises ADM Graceffo of concerns amongst Thompson bar with their ability to contact and have meaningful discussions with prisoners. ADM Graceffo indicates Corrections "hosts" LVI but does not operate LVI. If there re issues with booking or utilizing it effectively, they would be better directed to Ed Klassen. Theresa McDonald indicates not only LVI problematic, Corrections telephone system. Derek Coggan provided Theresa McDonald with two pages of entries related to calls where he was unable to get through to his client. ADM Graceffo indicates cost should not be an issue because calls to lawyers are free. He invites counsel to provide him with some details so he can investigate. Action Item. Theresa will invite Derek to send his information to ADM

Graceffo. CJ Wiebe speaks to problem of lawyers being required to book 24 hours in advance because of challenging schedules and heavy circuit travel. We would all like lawyers to be able to take advantage of days when court are weathered out to contact clients. ADM Graceffo does not know why a couple of hours notice would not be sufficient. Derek's examples include calling client and client unable to hear Derek and fact cannot leave a detailed message without it costing money. ADM Graceffo indicates these are likely Synergy (company that maintains the phone system for Corrections). He encourages counsel to use LVI, which offer more secure, and private conversation option. Phones, by contrast, are located in public areas within institutions. ADM Graceffo

indicates willingness to discuss these types of issues with Thompson bar. Action Item. Theresa McDonald will invite the Thompson bar to identify a representative to speak on their behalf with ADM Graceffo. CJ Wiebe thanks ADM Graceffo for his contributions and acknowledges the restorative justice piece is an important one once some operational issues are sorted.

5. Derek Coggan and Theresa McDonald circulated written proposal (attached) regarding possible solutions to problem of running out of court time before all in custody matters can be dealt with. One of the primary issues is the timeliness of prisoners being brought to court so duty counsel or existing counsel can interview them and take instructions. Derek and Theresa identify two possible solutions. The first is to have all prisoners at the courthouse by 9AM. Derek Coggan's firm is presently doing duty counsel work and have been keeping track of the time prisoners are arriving at the courthouse. Anecdotally Derek is able to offer that one day the sheriffs had prisoners at the courthouse by 9AM and the day went much better than another where prisoners did not arrive until 10AM ("disaster" day). Best case scenario is prisoners at courthouse by 9AM. Alternatively, Derek and Theresa's proposal outlines scenario in which duty counsel attend to RCMP cells at 8AM to take legal aid applications and start work on bail plans. Their proposal details resources required to make this work including 2 duty counsel lawyers at cells by 8AM; 1 Legal Aid admin staff at Legal Aid office by 8AM; Wi-Fi access at the detachment; 1 crown at the RCMP detachment by 8AM with disclosure packages and decision-making authority on all garden variety files; electronic disclosure of basic particulars including informations and criminal record, when requested; 2 interview rooms for counsel and work space for the crown in the detachment; RCMP priority to prisoner transport to court; dockets prepared by 8AM by court staff; and a sheriff's officer at the detachment to facilitate prisoner movement between cells and interview rooms. Buy-in is needed from all if this proposal is to work. Legal Aid will commit to providing the resources required from its office. Darcy Blackburn would work to have prisoners in cells to courthouse by 9AM but she will never be able to guarantee arrival of prisoners transported in from other communities by 9AM. It would be helpful to sheriffs to have a list prioritizing prisoners for transport. Separations and limited space can be hurdles. Inspector Lewis investigated after last meeting and does not believe RCMP are responsible for any delay in prisoners being moved to courthouse. RCMP do not believe they have sufficient space / interview rooms to meet the requirements set out in the written proposal. Russ does not believe it is possible at this time to have crowns or support staff

working before 830AM – the proposal is not operationally feasible for the crown's office at this time. Russ suggests having particulars from the crown at 8AM may not be a prerequisite, relying on Winnipeg experience where he says defence counsel speak to custodies early in the morning prior to receiving any disclosure materials from crown. Crown cannot commit to having one crown handle all bails – crown may defer to another with conduct of substantive charges. Suzanne Gervais questions whether LVI system installed at RCMP detachment might be used to facilitate earlier contact between counsel and prisoners. Perhaps a sheriff's officer could do the scheduling of prisoner-lawyer LVI meetings at cells in morning. RCMP might need someone to come demonstrate the LVI system. Could not be left in interview rooms but Suzanne queries whether it could be on a cart that could be rolled in and out of interview rooms. Theresa McDonald suggests may be no magic to LVI, telephone contact might be sufficient though obviously not as good as in-person interaction. If Legal Aid were provided with list of prisoners in cells, could assess who has counsel and who needs the help of duty counsel, then sheriff could perhaps facilitate phone contact between duty counsel and prisoners. Darcy Blackburn believes may be possible for sheriffs to generate a list of prisoners for Legal Aid duty counsel by 730–800AM. On Friday Theresa McDonald is holding meeting (free pizza is the draw) of all Thompson Defence Bar to encourage brainstorming of ideas to address operational issues in the court center. **Action Item – Theresa McDonald will report on any suggestions from the Thompson Bar.**

Russ Ridd raises challenge for crown's of preparing for bail then finding out at court it will be a disposition instead of a bail. Preparing for bail much different he says than preparing for a disposition, particularly for less experienced crown's. CJ Wiebe asks whether distinct bail and disposition courts would help. Russ indicates would be beneficial to crown.

ADAG Mike Mahon notes challenge of trying to do everything within a very short time frame and wonders whether there is a way to prioritize and spread the work out over a wider time. He suggests the bail files fall into three categories – the obvious consent releases; the ones where counsel may or may not run a bail hearing; and the ones where release is improbable. He wonders whether the obvious consent releases could be prioritized and transported earliest to be addressed right at 10AM with others being brought for 11AM. Theresa McDonald says nothing is obvious until counsel are able to review the particulars. Russ Ridd believes 9AM is earliest crown's could meet with defence

counsel at courthouse to advise of consent release matters. ADAG Mahon suggests if consents could be identified by 930AM those individuals could be transported for 10 and released.

Discussion about whether when court times out individuals missed are first priority following day. While this would seem to be common sense, it is likely not happening and this should be addressed, if possible. Action Items. ACJ Hewitt-Michta will look into this from judicial perspective and Russ Ridd and ADAG Mike Mahon will give further consideration to the issue of prioritizing / triaging custody matters....consents, youths, etc. The RCMP are ok with duty counsel coming to the detachment before court to meet with prisoners so long as there is a sheriff's officer to facilitate the contact. Darcy Blackburn will speak with Thompson Sheriffs about whether anything is happening in terms of prioritizing and communication prior to transporting prisoners.

6. Review of Action Items – All action items identified at March meeting complete except CJ Wiebe and ACJ Hewitt-Michta reviewing scheduling which will be an ongoing process for some time.
7. New Action Items – In addition to those already identified. Suzanne Gervais will find out whether LVI can be booked in 15-minute increments instead of 60 minutes. Suzanne will review LVI stats to identify any relevant trends.
8. Chief Judge Wiebe thanks all for attending and for their commitment to finding solutions to challenges in Thompson Court Center.
9. Next Meeting – dates to be circulated.

